

REMARKS

This communication responds to the Office Action of November 24, 2009, in which the Examiner rejected claims 27-29, 32, and 43-52 under 35 U.S.C. § 102(b), and rejected claims 31 and 33-41 under 35 U.S.C. § 103(a).

In response, claims 27-41 and 43-52 have been cancelled and claims 53-72 have been added. In view of the amendments and the following remarks, reconsideration and allowance are respectfully requested.

Interview Summary

The February 8, 2010, interview between Examiner Koharski and Adam Bramwell is appreciated. During the interview, the claims of the present application and U.S. Patent 5,098,397 were discussed. While formal agreement was not reached, pursuant to the interview, it is understood that the claims of the present application, as amended by this paper, are patentable over the art of record and all outstanding issues were resolved. However, the Examiner is invited to contact the undersigned or Adam Bramwell (612-492-6692) if any issues remain.

Claim Rejections – 35 USC §102

Claims 27-29, 32 and 43-52 are rejected under 35 USC §102(b) as being anticipated by U.S. Patent 5,098,397 (Svensson).

Claims 27-41 and 43-52 have been cancelled. However, claims 27-41, 43-44, and 50-52 have been substantially rewritten in method form as new claims 53-72. Accordingly, the rejection of claims 27-29, 32 and 43-52 based on Svensson will be addressed with respect to the corresponding method claims.

Independent Claim 53 is Not Anticipated by Svensson

Claim 53 is directed to a method for inserting an implant into tissue, the method comprising, in part, “providing an implant, the implant comprising: a port structure comprising an outer wall having a substantially uniform outer circumference interrupted by a plurality of regions having areas of a smaller outer circumference, wherein a first region of the plurality of

regions comprises one or more discrete tactile surface structures, and a second region of the plurality of regions comprises a plurality of discrete tactile surface structures . . . and inserting the implant into the tissue such that at least a portion of each of said discrete tactile surface structures is beneath an outer surface of the tissue . . .”

Svensson does not disclose first and second regions of discrete tactile surface structures implanted beneath tissue

Svensson discloses a percutaneous access device that includes a “zone 9 for tissue penetration of the cutaneous passageway 1.” *Svensson*, column 2, lines 13-14. Svensson further discloses “a threaded screw cap 6 which is screwed into [an] outer cylinder 8,” the screw cap 6 having recesses 7 for receiving a tool. *Svensson*, column 2, lines 2-9. In the Office Action, the Examiner relates Applicant’s one or more discrete tactile surface structures of the first region to a “single groove” in a “lip near 6” and Applicant’s plurality of discrete tactile surface structures of the second region to “grooves of 9.” *Office Action*, pages 2-3. As shown in FIGS. 1-2 of Svensson, the “single groove” referenced by the Examiner is provided entirely above the surface of the skin when the device is inserted into the body. Claim 53 recites that implant is inserted into tissue “such that at least a portion of each of said discrete tactile surface structures is beneath an outer surface of the tissue .” Thus, the “single groove” in a “lip near 6” is not anticipatory with respect to the first region of “one or more surface discrete tactile surface structures,” claimed in in claim 53. Nor does Svensson disclose such a region other than the “grooves of 9.”

For at least the foregoing reasons, Svensson does not anticipate the invention of claim 53. Reconsideration and allowance are thus respectfully requested.

Independent Claims 70 and 71 are Not Anticipated by Svensson

Claim 70 is directed to a method for inserting an implant into tissue, the method comprising the steps of: providing an implant comprising “a port structure comprising an outer wall having a substantially uniform outer circumference having regions of interruptions, the regions comprising areas of a smaller outer circumference, wherein a first region interrupting the substantially uniform outer circumference comprises one or more discrete tactile surface structures, and wherein a second region interrupting the substantially uniform outer circumference comprises a plurality of discrete tactile surface structures, wherein the first and second region are separated by a portion of the outer wall having the substantially uniform outer

circumference . . . and inserting the implant into the tissue such that at least a portion of each of said discrete tactile surface structures is beneath an outer surface of the tissue . . .”

Claim 71 is directed to a method for inserting an implant into tissue, the method comprising the steps of: providing an implant, the implant comprising “a port structure comprising an outer wall having a first region and a second region, each of the first and second regions having a substantially smooth surface, and a surface structure region disposed between the first and second regions, wherein the surface structure region comprises a plurality of discrete surface structures encircling the port structure . . . and inserting the implant into the tissue such that at least a portion of each of said first, second, and surface structure regions is beneath an outer surface of the tissue.”

Claims 70 and 71 are patentable for at least the reasons presented above with respect to claim 53 and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

Claims Depending from Claims 53 and 71 are Patentable

Claims 53-69 and 72 depend either directly or indirectly from claim 53 or claim 71. Accordingly, these claims are patentable for at least the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 31 and 33-41 were rejected under 35 U.S.C. § 103(a) as unpatentable over Svensson. Claims 31 and 33-41 have been substantially rewritten in method form as new claims 57 and 59-67.

As discussed above, Svensson does not disclose or teach the invention of claim 53. Claims 57 and 59-67 depend either directly or indirectly from claim 53. Accordingly, these claims are patentable for at least the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

Conclusion

No additional fees should be due in connection with this paper, but the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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By: _____

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